

**Minutes  
State Board of Education  
Monday, October 25, 2004**

The Arizona State Board of Education held its monthly meeting at the Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007. The meeting was called to order at 9:07AM.

**Members Present**

Ms. Nadine Mathis-Basha, President  
Dr. Matthew Diethelm, Vice President  
Ms. JoAnne Hilde  
Superintendent Tom Horne  
Ms. Joanne Kramer  
Dr. John Pedicone

**Members Absent**

Ms. Armida Bittner  
Dr. Michael Crow  
Ms. Evangelina "Conkie" Hoover

***Board Business***

Pledge of Allegiance, moment of silence and roll call.

1. APPROVAL OF MINUTES

- A. September 27, 2004 State Board Meeting
- B. September 20, 2004 Study Session

Motion by Dr. Diethelm to approve minutes as submitted for the September 20, 2004 State Board of Education Study Session and September 27, 2004 State Board meeting. Seconded by Dr. Pedicone.  
*Motion passes.*

2. BUSINESS REPORTS

- A. President's Report

Ms. Basha, on behalf of WestEd, thanked Superintendent Horne and President Michael Crow for speaking to the WestEd Group. WestEd holds its regional board meetings three times a year in San Francisco and one time in a regional state, either Nevada, Arizona, California or Utah. Arizona was the host this year and the Board enjoyed hearing from Superintendent Horne, President Crow, and Governor Napolitano.

Ms. Basha also expressed appreciation for members' participation in the October 18, 2004 Study Session.

- B. Superintendent's Report

Superintendent Horne did not submit a report at this time.

- C. Board Member Reports

Dr. Diethelm attended the annual NASBE conference in Orlando, Florida, where the "Closing the Achievement Gap" report was released. Useful suggestions were given regarding algebra education, migrant education, directors' leadership, and superintendent and principal training noting characteristics/actions that are correlated as strongest in student success. Dr. Diethelm will share his notes with members.

Ms. Hilde commended Dr. Karen Butterfield for her work on the focus groups around the high school renewal program and noted that this will lay the foundation for change.

- D. Director's Report, Including Discussion and Possible Legal Action

- 1. Rules Update and Process Discussion

Ms. Farley reported that the Structured English Immersion Endorsement Rules were approved by the Attorney General's Office last week and they have been filed with the Secretary of State. The motion for contempt will go forward in a Tucson court next month and updates will continue to be provided to members. The SEI rules are scheduled to go into effect 60 days from October 18, 2004.

Repeal of the Default Hearing rules regarding PPAC hearings is still pending. Conversations are ongoing with the Attorney General's Office and questions have arisen.

Ms. Farley attended a meeting of the Governor's Regulatory Review Committee (GRRC) and concluded that the State Board of Education as a public body is different from other state agencies in that we have to hold all hearings in public. Because the State Board of Education conducts all meetings publicly three opportunities are available for the public to address the Board regarding rules. Ms. Farley suggested the following possible recommendations be taken to the legislature:

- The State Board be exempt from the rulemaking process
- The Board be required to adopt rules that are substantially similar to the process that exists
  - Continue to post the rules, hold public hearings, and keep to the timeframes as in the past
- The State Board could file directly with the Secretary of State thereby not waiting on the Attorney General's or GRRC's approval

Ms. Farley noted that the Attorney General's Office provides excellent counsel to the State Board, but the delay at the end of the rules process is not a necessary step. In addition, the additional step of approval from the Attorney General's Office does not appear to modify challenges in court as is seen in the SEI challenge. She added that a process that continues to provide opportunities for the public to be involved all the way through should be sufficient. Members expressed their support as a great leap forward in the effort to shorten the rulemaking process. Ms. Basha noted that it is important for the Board to be transparent and continue to welcome the public's involvement. Ms. Farley will prepare draft legislation for review at the December meeting.

## 2. 2005 Board Calendar

The proposed dates for State Board meetings in 2005 was presented based on meeting the fourth Monday of each month with no meeting in July and November and the December meeting being early in the month to accommodate holidays. Study Sessions have not been scheduled. The Board agreed that rather than schedule study session now they would occur as needed and staff would coordinate schedules.

## 3. Review of Technology Assisted Project-Based Instruction (TAPBI) School Reports and Initial Staff Analysis

This program has been expanded from two school districts and two charter schools to seven school districts approved by this Board and seven charters approved by the State Board for Charter Schools. The draft report was presented, which will be forwarded to JLBC this afternoon, pending no changes recommended by members. Highlights of the report:

- Mesa and Deer Valley are continuing programs providing information from past years and this year.
- Mesa provided information on a national perspective regarding online learning as well.
- The five new programs used this year as a planning year with the exception of Peoria, which fully implemented its program and submitted a complete and comprehensive report.
- Recommendations regarding future reporting will note that providers need only report the current year's progress as past information is already on file.
- Mesa suggested an extension in the reporting date to insure the test scores are back to the schools and can be included in the reports. This request would necessitate a statutory change and will be forwarded to the legislature.
- Deer Valley did not submit test results and the remaining schools reported after the statutory deadline.
- The TAPBI final report takes about two weeks to compile. The legislature will be informed as to what information is helpful in these reports. At this time the report tells where a student is but there is no information regarding what courses they have taken and whether they are related to the AIMS test subjects. MAP information is not available at the high school level.

- It is not known whether the legislature will consider expanding this program again.
- Schools are interested in continuing this program as well as getting rid of the requirement that students have attended a public school the previous year.
- Target students have included those who were home schooled previously and were looking for supplemental courses as well as students who had dropped out and now want to earn a diploma. Discussion ensued regarding utilizing the technology from these programs as one aspect of intervention/mediation. It was noted that Mesa has developed curriculum that aligns to the standards and others are also developing curriculum in this area. Ms. Farley added that the report would be forwarded to appropriate departments so they are aware of the programs being offered. Superintendent Horne noted that this is a good tool for intervention but cautioned that students who want to qualify should not drop out and/or be home schooled and then try to use this program to graduate.

#### 4. Other Items as Necessary

- AIMS Discussion
  - November 15, 2004 is the next planned State Board Study Session regarding AIMS to be held at the Arizona Department of Education beginning at 9:00AM.
- PPAC
  - PPAC members are meeting two full days each month and also hold professional positions making it difficult to attend monthly State Board meeting as well.
  - Per Board discussions, modifications were made to the forms for more specificity and drafts of PPAC meeting minutes are being provided in an effort to assist Board members in the decision making process. Dr. Pedicone noted that the PPAC is probably aware of the cases where more detailed information is needed, i.e., harm to a child, etc., but that he does not want to create more work for the PPAC.

### 3. CONSENT ITEMS

- Consideration to Approve Contract Abstracts
- Consideration to Approve Allowing Chinle Unified School District to Accumulate Funds in the Unrestricted Capital Section of their Budget for Fiscal Year 2004-2005.
- Consideration to Approve Modifications to the Award of Academic Contest Funds Allocated Pursuant to A.R.S. §15-1241.
- Consideration to Accept the Automatic and Permanent Revocation, Pursuant to A.R.S. §15-550, of the Following Certification Cases:
  - Robert H. Oldfield, Case # C-2003-067
- Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Approve the Negotiated Settlements For the Following Individuals:
  - Meghan Culey, Case #C-2003-059
- Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Approve Certification for the Following Individuals:
  - Trent Straub, Case #C-2004-115R
  - Kim Tabeling, Case #C-2003-089R
  - Bobbie Tsinnie, Case #C-2004-133R

Motion by Dr. Diethelm to approve the Consent Agenda. Seconded by Ms. Hilde. *Motion passes.*

### 4. CALL TO THE PUBLIC

No requests from the public were received at this time.

### 5. GENERAL SESSION

- Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Revoke Certification for the Following Individual:

1. Cynthia Nightengale, Case # C-200-070

Mr. Yanez presented the background information. Mr. Grant Woods, representing Ms. Nightengale, addressed the Board listing the following factors for consideration:

- She has taught for twelve years
- She has done an excellent job working with incarcerated children
- She has received rave reviews
- Her principal encouraged teachers to have a close relationship with students, showing love, which may not be appropriate in a public school setting
- Teachers were encouraged to develop a close bond with students letting them know they were not going to walk away or abandon them
- She admits she crossed the line with the letter she wrote and that the wording was inappropriate
- Letter was thoroughly investigated and no additional evidence was noted
- PPAC may have understood her to say she would write the same letter again but she says she wouldn't be afraid to write a letter again but would use different wording
- Words like "love", "I miss you", "I hope we will be able to be together again" can be taken wrong
- She regrets this and avows it will never happen again
- If she teaches again in this type of situation she would try to write a letter in a better way
- She has done a great job working at Pappas since this incident
- This is her life and career
- Seems like this recommendation is too much, is unfair and too harsh
- Consider something lesser, i.e. one year suspension as originally negotiated with the Attorney General's Office

Further discussion ensued regarding the proposed settlement agreement, the fact that the recommendation from the PPAC is strong, and that there are other allegations in the documentation. Mr. Yanez referred to the PPAC minutes where Ms. Nightengale stated, under oath, that she did not feel the letter was inappropriate and when asked if she would write another letter like this in the future her reply was, "very possibly" – as the likely reason for the recommended action.

Ms. Jenny Pollock, Assistant Attorney General, noted that the complaint was based solely on the content and language of the letter. There was no evidence of sexual contact between Ms. Nightengale and the student.

At Board member Hilde's request, Ms. Pollock provided the timeline of events regarding Ms. Nightengale's case.

Board discussion occurred, including:

- The difference in culture and setting of the ADJC school from public schools
- It has been over 4 years since the incident with no other allegations brought forward
- Teachers need to keep a sense of balance
- A steady, stable adult should know not to make overtures that could set the student up for future hurt

Staff provided the following clarifications, information and options:

- The state's position has always been that the content of the letter written by Ms. Nightengale was unprofessional conduct
- Possibility of adding a requirement for counseling
- A.R.S. § 15-203 (A)20 gives options available to the Board which include a letter of censure, suspension, suspension with conditions or revocation
- If a suspension with conditions is recommended, specifics are required as to how the Board would follow up on the conditions and how the certification would be reinstated upon meeting those conditions

- The Board may ask the PPAC or staff to create a draft proposed agreement to include recommendations for assessment and/or any other parameters desired
  - Previous agreement was for one year suspension with no conditions attached
- Motion by Ms. Hilde to remand the case of Ms. Nightengale back to staff to build a settlement agreement with conditions to be presented to the Board in a timely manner. Seconded by Ms. Kramer.

Conditions recommended by Dr. Pedicone should include an assessment over time to insure there is not a mistake being made in releasing someone to teach.

Upon staff request for clarification, Board member Hilde made a friendly amendment to the above motion to clarify a suspension of one year is to be included. This is not to be a one-time condition but rather a process within the one-year suspension. *Ms. Basha recused herself due to prior knowledge. Motion passes.*

- B. The Board will Receive Information to Determine Whether Evidence Exists That the Salt River Pima-Maricopa Community School is in Breach of One or More Provisions of Their Charter Contract, Federal, State or Local Laws. Discussion and Possible Consideration of Action the Board Deems Appropriate Regarding Salt River Pima-Maricopa Community School, Including, but Not Limited to Issuing A Notice of Intent to Revoke. Pursuant to A.R.S. §38-431.03 (A) (3), the Board may vote to go into Executive Session for consultation and legal advice.

Ms. Michele Diamond presented background information noting that this item is before the Board because the fiscal year '03 audit has not been submitted. Ms. Diamond noted that the State Board for Charter Schools has issued revocations in the past when there is a history of longstanding problems. A site visit has not been conducted and an engagement letter for fiscal year '04 has not been received. In addition, an extension has not been requested by Salt River Pima-Maricopa Community School.

Motion by Dr. Pedicone to approve issuing a notice of intent to revoke Salt River Pima-Maricopa Community School's charter. Seconded by Ms. Hilde. *Motion passes.*

Ms. Kim Anderson, Assistant Attorney General, clarified that once the Board approves the notice of intent to revoke, a notice of hearing is served on the operator that sets the hearing no sooner than 90 days. The parties have the opportunity to present evidence and witnesses before the administrative law judge who will recommend a decision. The State Board will then have the option to accept or reject all or part of the order. Settlement negotiations can also happen in the meantime.

Currently 10% of state funds are being withheld from Salt River Pima-Maricopa Community School and will continue until the reason for the withholding is resolved.

Ms. Hilde stated there should be questions asked regarding the quality of education, student achievement, etc. Ms. Diamond responded that they will make a site visit and get academic achievement information to be presented. In addition, Ms. Basha asked for information regarding where the 225 students would go who now attend this school and Ms. Farley noted that in the past ASBCS staff has worked hard to assist in placement and other area schools have cooperated to accommodate students.

- C. The Board will Receive Information Regarding DINE Charter High School, Including Information to Determine Whether Evidence Exists that DINE is in Breach of One or More Provisions of Their Charter Contract or is Not in Compliance with Federal, State or Local Laws. Discussion and Possible Consideration of Action the Board Deems Appropriate Regarding DINE Charter High School, Including, but Not Limited to Issuing A Notice of Intent to Revoke. Pursuant to Session for consultation and legal advice.

Ms. Farley reported that DINE Charter High School, located 40 miles north of Winslow, Arizona, has met one issue by submitting the complete audit and questionnaire. However, there are still issues regarding special education and she turned the presentation over to ADE.

Ms. Lillie G. Sly, Associate Superintendent of Educational Services and Resources, Arizona Department of Education, presented background information on behalf of Ms. Joanne Phillips, Deputy Associate Superintendent, Exceptional Student Services, Arizona Department of Education, who was out of town.

Discussion ensued regarding what barriers the ADE found when working with DINE and it was noted that one of DINE's reasons for not complying was because they did not accept federal funds. However, they are obligated to provide free appropriate public education for all eligible students and to implement an IEP regardless of acceptance of federal funds. DINE now knows they must comply even though they have chosen not to receive federal funds. Ms. Sly noted that even though ADE staff has worked with DINE to develop required policies and procedures in this area, DINE has not followed these policies and procedures. ADE staff also looks at the way the current evaluation is being conducted, that a team determines eligibility, develops an IEP and a teacher is implementing the IEP. ADE staff saw no evidence of these actions.

Dr. Pedicone noted that the Board's decision could be affected by whether or not the students are achieving. Ms. Sly responded that there is a well-established IDEA procedure that should be followed in providing services for students and/or moving them in or out of the services required by that student. Ms. Sly stated that ADE staff has noted that DINE just doesn't want to deal with the regulations. Ms. Hilde wondered with only 30 high school students, how a curriculum is being provided to allow students to have the basics. The State Board has a responsibility to assure these 30 students are educated properly.

Ms. Farley reiterated that when a letter of notice from the State Board is sent to these schools, the letter includes the reason(s) for the possible action and the possible areas of disciplinary action the Board may take.

Dr. Robert Franciosi, Deputy Associate Superintendent, Research and Evaluation Section, Arizona Department of Education, noted that DINE would receive an achievement profile for the first time this year. It is a performing school where 14% passed math compared to 10% average statewide. In Reading, 12% passed compared to 32% average, and Writing 25% passed compared to 37% average. It is performing below the state average but earned the performing label because it is a small school and the margin of error allowed extremely small schools. The official release date for these labels is November 2, 2004.

Motion by Dr. Diethelm to approve withholding 10% of state aid from Developing Innovations in Navajo Education, Inc. for non-compliance with state and federal laws and the terms of its charter contract pertaining to failure to comply with special education laws and timely submission of audit. Seconded by Dr. Pedicone.

Ms. Farley noted that the portion of the motion pertaining to the submission of audit should be deleted as DINE has submitted its audit and the sole reason for consideration today is the special education issue. Dr. Diethelm and Dr. Pedicone agreed with this modification to the motion.

*Motion passes.*

D. Pursuant A.R.S. 15-241(N) Approve the Criteria for Appeals for Third-Year Underperforming Schools.

Dr. Donna Lewis, Associate Superintendent, Accountability Division, Arizona Department of Education, presented background information and noted this is an extension of the traditional process already in place with the addition of the description of mitigating factors that might take the failing schools out of the failing status.

Motion by Ms. Hilde to approve the use of the modified appeals rubric for use with the third year underperforming schools pursuant to A.R.S. §15-241 (N). Seconded by Ms. Kramer. *Motion passes.*

E. Presentation, Discussion and Possible Consideration to Approve Modifications To the AZ LEARNS Accountability Formula, Including, But Not Limited To, the Formulas For:

1. Alternative Schools

Dr. Donna Lewis, Associate Superintendent, Accountability Division, Arizona Department of Education, noted that this item is brought to the Board today for clarification regarding the process.

Dr. Robert Franciosi, Deputy Associate Superintendent, Research and Evaluation Section, Arizona Department of Education, stated that there was some concern that alternative schools would receive some special consideration due to their special nature. As a result, they have developed a system to look at these schools. At present twelve are underperforming out of a total of 130 profiles. The fact that underperforming schools deal with at-risk high school students will be taken into account in the appeals process allowing them an opportunity to make a case for further consideration. Ms. Jennifer Regalado, Director of Accountability Systems and Reporting, Research and Evaluation, Arizona Department of Education, noted the types of appeals available to these schools:

- Statistical appeal
- Substantive appeal

She explained that the traditional profile does not always take into account the fact that a school may have a 19-year-old entering with 2 credits and to be held to the graduation requirement is unreasonable. Seven of the twelve underperforming schools are utilizing the appeals process at the present time. In the past the appeal has been successful in approximately 90% of the cases where the schools presented details as to their situations. The appeals process is more robust this year than in the past as staff is traveling throughout the state holding workshops to assist these schools in learning about the process.

Dr. Pedicone clarified that while a school's circumstances are being looked at, the school is permitted to continue. Ms. Regalado explained that this is a very comprehensive look at holding them to accountability within the level of ability. Every perspective is taken into account. She added that the rubric is posted on the web site, the schools are familiar with the Average Yearly Progress (AYP) process, and that there are many good questions being asked in their workshops throughout the state.

Dr. Lewis noted that the team has held 30 workshops throughout the state to date to insure knowledge and comprehension are accomplished.

F. Presentation and Discussion Regarding New Activities and Updates on the Teacher Preparation Program Evaluation Committee Activities.

Ms. Kathy Wiebke, Deputy Associate Superintendent for Highly Qualified Professionals, Arizona Department of Education, presented the background information, which includes the seven components and three ratings for each standard and noted that a recommended rubric will be brought to the Board no later than the January 2005 meeting. The three-step review process as defined by the committee will include:

- Preliminary review
  - Institutional profile
  - Conceptual framework
  - Candidates
  - Faculty

If information is inadequate at this point, the process would stop until the inadequacy is fixed.

- Program evaluation
  - Program
  - Assessment

- Field experiences

If this portion is successful the third and final step is then performed.

- Site visit

G. Presentation and Discussion Regarding Certification Reform Activities, Including But Not Limited To, Updates on the Performance Assessment Subcommittee.

Ms. Kathy Wiebke, Deputy Associate Superintendent for Highly Qualified Professionals, Arizona Department of Education, presented background information regarding the development of the state educator performance assessment. (Please see information in materials packet) The committee is working on a possible four-level tiered certification system:

- Initial
- Proficient
- Standard
  - Standard would be the level requiring performance assessment
- Master

Ms. Wiebke outlined some of the performance assessment program possibilities that are being considered by the committee utilizing Connecticut's model and the teacher excellence through compensation model:

- Coordinate with existing professional development strategies and resources
- Plan and implement training for mentors and assessors
- Cost to local districts
- Advantage of piloting this program in volunteer districts

The new performance assessment model is grounded in Arizona's professional teaching standards and the document in the materials packets has been altered to include:

- A crosswalk with these standards
- Specified portfolio requirements
- Redefined assessment rubric
- Responsibilities of the involved education entities
- Rationale for meeting each sub-objective of the standards in R7-2-602
- Recommended implementation timeline

A complete draft will be presented to the Board at the December 2004 meeting that will be the product of input from stakeholders from all regents, public and private universities, and human resources staff from local school districts.

Dr. Diethelm noted that the teacher preparation program requirements as well as skills, methodologies and tools teachers have to use are in a time of rapid change and will need to change quickly. He asked how these documents will quickly change to account for new skills and requirements. Ms. Wiebke responded that this is a standards-based system, which is a good foundation; they are working very closely with higher education teacher preparation programs, which utilize portfolios to capture the students' work. The goal is to have a document that is fluid enough to accommodate the changes as they occur. Ms. Wiebke stated that the committee recognizes this need and feels confident in the tasks that have been accomplished to date in formulating an assessment that is doable, sustainable, and flexible.

Regarding the implementation timeline, Ms. Wiebke noted the commitment is for June 2005 as they work within the timeline that has been imposed by the Attorney General's ruling, while at the same time they produce a quality piece that has sustainability and works. The committee may recommend piloting this program first to assure these criteria. Dr. Diethelm noted that incentives for the institutions and individuals could be helpful.

Ms. Farley noted that this assessment has been referenced in Board Rule since 1998. The last rules developed by the Board in regard to certification that were rejected by the Attorney



General's Office was due, in part, to the fact that no performance assessment had been put in place. When emergency rulemaking and rulemaking were done, a timeline was set in place for addressing performance assessment issue.

H. Presentation, Discussion and Possible Consideration to Approve Cut Scores for the Arizona and United States Constitutions and the Subject Knowledge Educator Proficiency Assessments.

Ms. Kathy Wiebke, Deputy Associate Superintendent for Highly Qualified Professionals, Arizona Department of Education, noted that this is an information item with action recommended to be delayed until the December 2004 meeting. Ms. Wiebke presented background information. (See materials in packet).

Additional information regarding the testing process:

- Content advisory committee for each content area that includes classroom teachers who are currently teaching in that area for which the test is being developed
- Committee duties include:
  - Determine the content of the test based on the appropriate Arizona standards
  - Review and validate test materials
  - Review score training materials
  - Serve on standards-setting panels
  - Participate in activities related to providing passing score recommendations
- Content validation surveys are randomly sent to teachers currently teaching in appropriate areas
- Survey results are used to finalize test objectives
- Pilot tests are administered to teacher education students in the appropriate content area
- Test results are analyzed and reviewed by the content advisory committee
- Teachers who are teaching in the appropriate content area take the test, score their own test, and individually rate each test question as to the percentage of teachers taking the exam they think would correctly answer the question
- Individual rankings for all committee members are analyzed determining the mean and range for each test question
- An opportunity to change the rating is given
- A suggested passing score is determined
- This suggestion along with the information from the pilot tests are used by the Arizona Educator Assessment Advisory Committee to determine the recommended passing scores
- There are 100 questions on the Constitution test, 60 US and 40 AZ
- If a student takes the classes in AZ and US Constitution, the test requirement is waived

Ms. Hilde recommended further State Board discussion around this issue before a final decision is made to include the following issues:

- Look at teachers who barely pass the AEPA
- Does the cut score have to be set at the same point for all subjects; is there flexibility?
- Not doing something that significantly reduces the number of available educators

Ms. Wiebke noted the Board does have the ability to set different cut scores for different exams. In addition, staff is working with National Evaluation Systems (NES) in looking at specific middle school tests, particularly math for middle school teachers, and then looking at other content areas. Superintendent Horne pointed out that flexibility could be shown for different levels of difficulty.

I. Presentation and Discussion of the Arizona Service Learning Guidelines  
Developed Pursuant to A.R.S. 15-203(A)(31).

Ms. Basha noted that this item is being postponed for presentation at a future Board meeting.

J. Presentation, Discussion and Consideration to Withhold State Aid for the Following Public Education Agencies who Failed to Submit Their ESS Annual Data Collection Reports Pursuant to the requirements of the federal Individuals With Disabilities Act (IDEA):

1. Apache County Sheriff's Office
2. Ascending Roots Scholastic & Athletic Premise
3. Chinle Unified District
5. Dragonfleye Science, Inc.
6. Gan Yaladeem: The Looking Glass School
7. Graham County Sheriff's Office
8. Horizons Challenge School
9. LEAD Charter Schools
10. McNeal Elementary District
11. New Visions Academy, Inc.
12. Owens-Whitney Elementary District
13. Pan-American Elementary Charter
14. Patriot Academy, Inc.
15. Santa Cruz County Sheriff's Office
16. Special Education Services dba Southwest Education Center
17. Terra Nova Academy
18. Union Elementary District
19. Yarnell Elementary District

Ms. Lillie G. Sly, Associate Superintendent of Educational Services and Resources, Arizona Department of Education, presented the background information as per materials in packet. She noted that on October 1, 2004 the 19 schools were notified that this matter would be taken to the State Board and ten of the schools complied by submitting the required reports and are now in compliance. Ms. Sly listed the nine schools still out of compliance:

1. Apache County Sheriff's Office
2. Ascending Roots Scholastic & Athletic Premise
3. Chinle Unified District
4. Graham County sheriff's Office
5. Horizons Challenge School
6. LEAD Charter Schools
7. Owens-Whitney Elementary District
8. Santa Cruz County Sheriff's Office
9. Yarnell Elementary District

Superintendent Horne pointed out that the information required from these schools is the same as is required by the federal government. The Arizona Department of Education has eliminated the necessity for additional information.

Motion by Ms. Kramer to withhold state aid from the following Public Education Agencies for failure to comply with Federal Individuals With Disabilities Act laws regarding Exceptional Student Services Annual Data Collection Reports:

1. Apache County Sheriff's Office
2. Ascending Roots Scholastic & Athletic Premise
3. Chinle Unified District
4. Graham County sheriff's Office
5. Horizons Challenge School
6. LEAD Charter Schools
7. Owens-Whitney Elementary District
8. Santa Cruz County Sheriff's Office
9. Yarnell Elementary District

Seconded by Ms. Hilde. Motion amended to state percentage to be withheld as 10% of state aid. *Motion passes.*

It was brought to the Board's attention that one of the above schools was mentioned incorrectly and therefore the list of nine schools still out of compliance was corrected as follows:

1. Ascending Roots Scholastic & Athletic Premise
2. Chinle Unified District
3. Graham County sheriff's Office
4. Horizons Challenge School
5. LEAD Charter Schools
6. Owens-Whitney Elementary District
7. Santa Cruz County Sheriff's Office
8. Terra Nova Academy
9. Yarnell Elementary District

Approval for motion to be amended by Ms. Kramer. Seconded by Ms. Hilde. *Motion passes.*

K. Presentation, Discussion and Consideration to Approve the AIMS-A and ASAT Level II Alternate Assessments for Use in Assessing Students with Significant Cognitive Disabilities.

Ms. Lillie G. Sly, Associate Superintendent of Educational Services and Resources, Arizona Department of Education, presented background information as provided in the materials packet. She noted that a task force has been working to develop a more comprehensive and appropriate instrument to measure the growth, academic progress and social skills of these students. This is not a pencil and paper test but rather an activity test. Last year students were tested out-of-level, which cannot be done this year.

Dr. Pedicone applauded ADE's stance and noted the difficulty of this task. Points of concern raised by Dr. Pedicone were:

- Whether this can be more efficient for teachers
- Teachers need to understand the difference between this additional assessment and the the IEP process
- What can be done to streamline the process

Ms. Joan McDonald, Assistant Superintendent for Education Services, Tolleson Elementary School District, addressed the State Board regarding the positive aspects of the implementation of this assessment. She noted the following points:

- The functional standards and the Alternate Assessment Level I are extremely appropriate for individuals with cognitive abilities that range below a five-year-old.
- The Level I assessment addresses functional standards across age groups.
- This assessment should address the Arizona academic standards and should not be a replication of other assessments.
- The teacher knows how much intervention and support is needed for their students.
- This evaluation can be made throughout the year.
- The students to be tested are those who can be proficient.
- This assessment serves to meet the student's needs regarding
  - The most important goal(s) for the student to attain
  - The long-term goals for the student
  - If the student could be eligible for an extended school year
- Level I may become a diagnostic tool at some point.
- Do not have to administer and document every year, but one time only.

Motion by Dr. Diethelm to approve the AIMS-A and ASAT Level II alternate assessments for use in assessing students with significant cognitive disabilities, beginning with the Spring 2005 test administration. Seconded by Ms. Hilde. *Motion passes.*

L. Presentation and Discussion of Draft Rules Regarding the Viewing Policy for the Dual Purpose Assessment and the High School AIMS Test.

Dr. Donna Lewis, Associate Superintendent, Accountability Division, Arizona Department of Education, presented background information noting that the lawsuit pertaining to this issue has been settled.

Ms. Hilde asked about the timeline and Ms. Roberta Alley, Acting Deputy Associate Superintendent, Assessment Division, Arizona Department of Education, explained that a minimum amount of time would have to be given to allow staff to prepare a viewing site and personnel to accommodate this activity. She added that this will be time constraining and two-three weeks would be an appropriate amount of time to stipulate. It was recommended to stipulate “\_\_\_ calendar/working days” or “reasonable time but no later than...” or “no more than 20 days” to avoid conflicts with holidays, etc.

Comments from the Board will be incorporated and brought for approval at the December meeting.

Ms. Farley added that the next step will be Notice of Docket Opening and Notice of Proposed Rulemaking to be presented at the December meeting.

M. Pursuant to A.R.S. § 15-241(Q) Presentation, Discussion and Consideration to Approve the List of State Board Approved Providers of Services to Students in Underperforming and Failing Schools Funded by the Tutoring Fund Established in A.R.S. §15-241(BB), and Presentation, Discussion, and Consideration to Approve the Criteria For Local Education Agencies (LEAs) to Apply for Grants From This Fund.

Ms. Nancy Konitzer, Deputy Associate Superintendent, Title I and NCLB Consolidated Activities, Academic Achievement Division, Arizona Department of Education, presented the background information and highlighted the following factors (please see complete materials in packet):

- The state tutoring provider has to agree with the state program provision that if the student fails to make academic progress as outlined in law the state could require reimbursement of the tutoring fees.
  - Superintendent Horne noted that they will propose that this legislative requirement be removed as it appears not to be rational and has resulted in the list of 26 providers being reduced to 8. The Department is asking to look at the overall progress over two years rather than an individual student basis.
  - The provider and the student’s parent(s) will enter into an agreement as to the desired progress for the student.
- Applications were received from nine providers and eight have agreed to become providers for the recommended amount of up to \$250 per student.
  - Kumon Math and Reading declined to be a provider based on the \$250 per student fee limitation.
  - Most of the providers are nationally or regionally based educational service providers.
  - Provider requirements are extensive based on NCLB with a record of success and achievement, evidence of sound two-year business background, and ability to provide standards-based instruction.
  - Brainfuse Online Instruction is believed to be the only online provider.
- Providers were given a list of schools and asked to identify which schools they would be able to service.
  - Most decisions are geography-based.
  - Parents may select from the provider/services offered at their school.

- Providers have to take all students that come to them.
  - Schools may also be a provider, but an underperforming school may not.
- The NCLB providers noted whether or not they give small group instruction. Those with a higher ratio of instruction did not receive as high a score in the ratings during the initial evaluation process.
  - One-on-one is most effective with no more than one-to-three the best scenario.
  - There was no stipulation as to what the provider must do to set up the sessions. It is up to the provider.
  - A low income, low achieving student could be eligible for supplemental services.
  - The experience in the NCLB program is being utilized to build the state system.
- Monitoring and analysis of this project:
  - District applies for funds and contracts with a provider on behalf of the parent.
  - The amount of money disbursed will be tracked through the grant system.
  - Students will be tracked through SAIS next year if they received tutoring to see if they passed AIMS or not.
  - A summary report will be done this year.
  - Districts like Mesa, with no underperforming schools, do not have access to these funds at this time. This is part of the discussion being brought forward by the Superintendent so they will have access to these funds for any student not passing AIMS.

Ms. Farley noted that there is a recommendation to cap the amount that will be provided at \$25/hour up to \$250 per pupil, which could be included in the motion, but was not part of the written information provided.

Superintendent Horne clarified that this is the Department's recommendation that originated with the discussion of providing AIMS intervention through tutoring. The thought was to make the same amount available to students needing tutoring as well as to juniors who failed AIMS. Legislation at this time requires the Department to make these services available to all students at both failing and underperforming schools even if a student is excelling. Experience shows that only a small percentage of parents actually avail themselves of these services for their child. The anticipation is that less than the allotted monies will be used and the suggestion to the legislature will be to use the remaining funds for AIMS intervention. The recommendation will be for the cap to be \$250 per student so if four students were grouped together, possibly more than ten hours of tutoring could be provided. Mr. Horne clarified that they are not recommending an hourly cap.

Ms. Konitzer added that \$1.5M is available each year from Prop 301 and there is a backlog of funds from previous years where no services have been utilized since there were no schools labeled as failing prior to this year.

Motion by Ms. Hilde to approve the list of approved NCLB supplemental education service providers who have stated that they would like to be providers for the State Tutoring Fund as an "alternative tutoring program" provider at a rate not to exceed \$250/student. Seconded by Dr. Pedicone. Dr. Pedicone added that even though this is the right decision there are variables that aren't controlled. He stressed that feedback is necessary regarding:

- Analysis of how the student performs;
- How the provider works;
- Whether the amount of money is sensible overall; and
- Any other questions that may arise.

Superintendent Horne noted that the Department would report back. *Motion passes.*

Ms. Konitzer noted the following information regarding the second request for schools to apply for grants:

- Districts will notify parents of two options:

- Alternative provider
  - School can sign student up directly
- School-offered tutoring
  - District can apply for funding at \$250/student for a program as outlined in the application
- Parent has a choice of going to the school or the alternative provider.
- Parent must choose before the grant is approved because the District will submit applications for both programs.
- Staff from underperforming schools cannot apply to provide the tutoring.

Motion by Dr. Pedicone to approve the criteria for schools to apply for grants funded through the AZ LEARNS “Failing Schools Tutoring Fund” under the same conditions as outside vendors not to exceed \$250/student. Seconded by Dr. Diethelm. *Motion passes.*

#### N. Presentation and Discussion of Additional Opportunities for High School Students to Take the AIMS Test.

In response to questions regarding what happens to those students who don’t pass AIMS and would otherwise graduate, Superintendent Horne made the following recommendations:

- They be allowed to re-take AIMS as many times as they want to for as long as they want to.
- The student would receive their diploma when they have passed the area(s) that they had failed previously.
- The state would continue to pay the \$15/test cost.

Comments/concerns raised by Board members:

- Guidelines for a school/district to know when the student will return to take a test.
- Method and expenses involved in notifying the student who is not in school any longer about the test timeline.
- Whether tutoring funds would be available to the student who wants to return to take the AIMS test, but may need tutoring first.
- Many sources for help are expected to become available, i.e., community colleges, private groups and individuals, as well as distance learning.
- Students can be enrolled until age 21, 22 for special education.
- Should look at the senior year as a time to assist students to be successful, framing assessments for them in focused areas.
- Check with the testing company to re-test by strand.
- Change the “culture” and “expectation” of the senior year to that of continuing to achieve.
- Make the test manageable so students can succeed.

#### 6. ADJOURN

Motion by Dr. Diethelm to adjourn the meeting. Seconded by Ms. Kramer. *Motion passes.*

*Meeting adjourned at 12:40 PM.*